

Attachment 1 to Application

Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of

LAMBDANET COMMUNICATIONS DEUTSCHLAND AG
a company incorporated in Germany,
having its registered office at
Günther-Wagner-Allee 13, 30177 Hannover, Germany
(hereafter “LambdaNet”)

Application Under Section 214
Of the Communication Act of 1934,

As Amended, for Limited Global Resale Authority

For the Provision of Resold Bandwidth Transport Services
Between the U.S. and Various International Points

Answer to Question 9 of Applicant Information:

Does the applicant qualify for streamlined processing ?

LambdaNet respectfully requests streamlined processing of this Application pursuant to Section 63.12 of the Commission's Rules. 47 C.F.R. 63.12. This Application qualifies for streamlined processing for the following reasons:

- (1) LambdaNet qualifies for a presumption of non-dominance under § 63.10(a)(3);
- (2) The affiliated destination markets are WTO Member countries.

Answer to Question 11 of Applicant Information:

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(i) A certification as to whether or not the applicant is, or is affiliated with, a foreign carrier. The certification shall state with specificity each foreign country in which the applicant is, or is affiliated with, a foreign carrier.

The undersigned hereby certifies, on behalf of LambdaNet Communications Deutschland AG (LambdaNet), with respect to the foregoing application for authority to provide international services, that:

1. LAMBDANET COMMUNICATIONS DEUTSCHLAND AG is part of the LambdaNet Group, a group of European telecommunications carriers with a common majority shareholder

LNG HOLDINGS SA (hereafter “LNG”), formerly known as FIRSTMARK COMMUNICATIONS EUROPE, a company incorporated in Luxembourg, having its registered office at 5 Rue Eugene Ruppert, 2453 Luxembourg;

2. The affiliated carriers in the destination countries to which LambdaNet proposes to provide services are:

LAMBDANET COMMUNICATIONS FRANCE S.A. (hereafter “LNC.FR”), a company incorporated in France, having its registered office at Les Collines de l'Arche, 76 route de la Demi-Lune, 92057 Paris La Défense, France;

LAMBDANET COMMUNICATIONS ESPA A S.A. (hereafter “LNC.ES”), a company incorporated in Spain, having its registered office at Julian Camarillo 29 B, Madrid, Spain; **AND Plant Location Portugal** (hereafter “PL.PT”)

LAMBDANET COMMUNICATIONS AUSTRIA GMBH (hereafter “LNC.AU”), a company incorporated in Austria, having its registered office at Simmeringer Hauptstraße 24, 110 Vienna, Austria;

LAMBDANET COMMUNICATIONS s.r.o. (Ceska Republica) (hereafter “LNC.CR”), a company incorporated in the Czech Republic, having its registered office at Vinohradska 190, 13061 Prague 3, Czech Republic; AND **Plant Location Slovakia** (hereafter “PL.SL”)

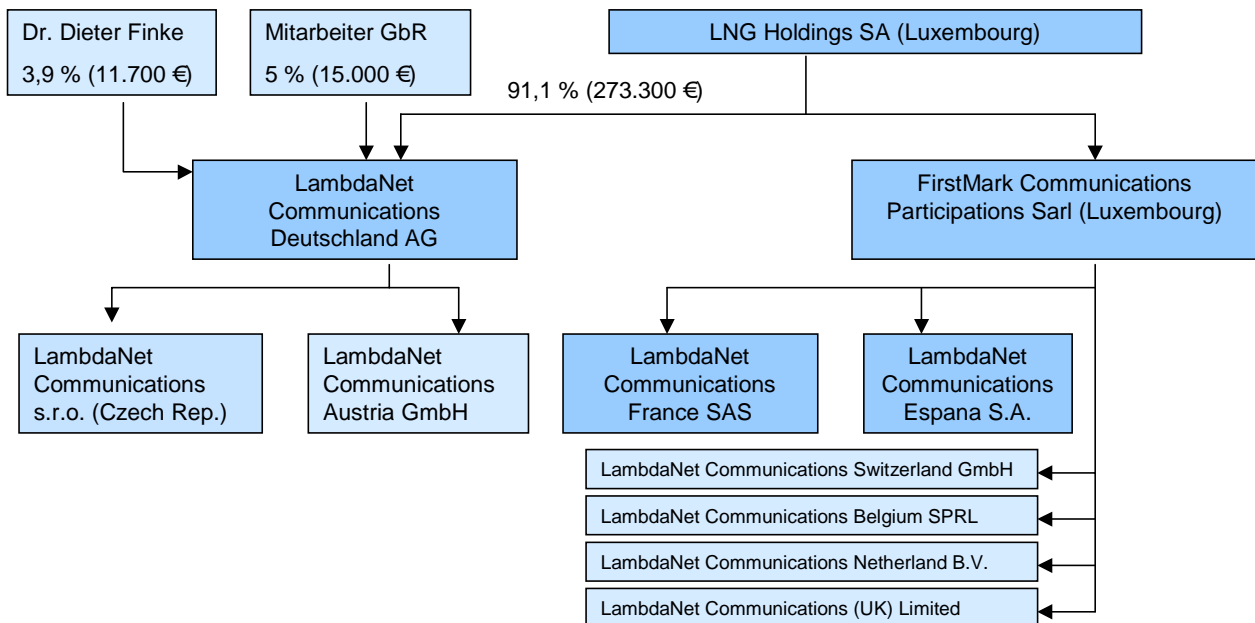
LAMBDANET COMMUNICATIONS (UK) LIMITED (hereafter “LNC.UK”), a company incorporated in the United Kingdom, having its registered office at 26 Old Bailey, London, EC4M 7HW, United Kingdom;

LAMBDANET COMMUNICATIONS NETHERLANDS B.V. (hereafter “LNC.NL”), a company incorporated in The Netherlands, having its registered office at Telestone 8 – Teleport, Naritaweg 165, 1043 BW Amsterdam, The Netherlands;

LAMBDANET COMMUNICATIONS BELGIUM SPRL (hereafter “LNC.BE”), a company incorporated in Belgium, having its registered office at boite 2, 13a avenue de Tervuren, 1040 Bruxelles; and

LAMBDANET COMMUNICATIONS SWITZERLAND GMBH (hereafter “LNC.CH”), a company incorporated in Switzerland, having its registered office at c/o Alain Raemy, CMS von Erlach Klainguti Stettler Wille, Dreikönigsstraße 7, 8002 Zürich, Switzerland.

3. LambdaNet Communications Deutschland AG is 91.1 % owned by LNG Holdings SA, a Luxembourg based financial holding company of the LambdaNet Group. The following chart shows the shareholder structure within the LambdaNet Group of companies. Where no percentage is explicitly provided the stake is a full (100%) or majority stake (always greater 90%).



(j) A certification as to whether or not the applicant seeks to provide international telecommunications services to any destination country for which any of the following is true. The certification shall state with specificity the foreign carriers and destination countries:

- (1) The applicant is a [foreign carrier](#) in that country; or
- (2) The applicant [controls](#) a foreign carrier in that country; or
- (3) Any entity that owns more than 25 percent of the applicant, or that controls the applicant, controls a foreign carrier in that country.
- (4) Two or more foreign carriers (or parties that control foreign carriers) own, in the aggregate, more than 25 percent of the applicant and are parties to, or the beneficiaries of, a contractual relation (e.g., a joint venture or market alliance) affecting the provision or marketing of international basic telecommunications services in the United States.

The undersigned hereby certifies, on behalf of LambdaNet Communications Deutschland AG (LambdaNet), with respect to the foregoing application for authority to provide international services, that the foreign carriers pursuant to section 63.18 (j) are those listed in the answer to section 63.18 (i) above. LambdaNet seeks authority to provide services to the destination countries listed in the answer to question 12 of the applicant information below.

(k) For any destination country listed by the applicant in response to paragraph (j), the applicant shall make one of the following showings:

- (1) The named foreign country (i.e., the destination foreign country) is a Member of the World Trade Organization; or
- (2) The applicant's affiliated foreign carrier lacks [market power](#) in the named foreign country; or
- (3) The named foreign country provides effective competitive opportunities to U.S. carriers to compete in that country's market for the service that the applicant seeks to provide (facilities-based, resold switched, or resold non-interconnected private line services). An effective competitive opportunities demonstration should address the following factors:

(1) All named foreign countries pursuant to section 63.18 (j) are Members of the World Trade Organization. (2) All of LambdaNet's affiliated carriers pursuant to section 63.18 (i) above lack market power in the named countries.

(i) If the applicant seeks to provide facilities-based international services, the legal ability of U.S. carriers to enter the foreign market and provide facilities-based international services, in particular international message telephone service (IMTS);

(ii) If the applicant seeks to provide resold services, the legal ability of U.S. carriers to enter the foreign market and provide resold international switched services (for switched resale applications) or non-interconnected private line services (for non-interconnected private line resale applications);

(iii) Whether there exist reasonable and nondiscriminatory charges, terms and conditions for interconnection to a foreign carrier's domestic facilities for termination and origination of international services or the provision of the relevant resale service;

(iv) Whether competitive safeguards exist in the foreign country to protect against anticompetitive practices, including safeguards such as:

- (A) Existence of cost-allocation rules in the foreign country to prevent cross-subsidization;
- (B) Timely and nondiscriminatory disclosure of technical information needed to use, or interconnect with, carriers' facilities; and
- (C) Protection of carrier and customer proprietary information;

- (v) *Whether there is an effective regulatory framework in the foreign country to develop, implement and enforce legal requirements, interconnection arrangements and other safeguards; and*
- (vi) *Any other factors the applicant deems relevant to its demonstration.*

Not applicable; LambdaNet does not seek to provide facilities-based international services within the scope of this application.

(l) Any applicant that proposes to resell the international switched services of an unaffiliated U.S. carrier for the purpose of providing international telecommunications services to a country where it is a [foreign carrier](#) or is [affiliated](#) with a foreign carrier shall either provide a showing that would satisfy § 63.10(a)(3) or state that it will file the quarterly traffic reports required by § 43.61(c) of this chapter.

Not applicable; LambdaNet does not seek to resell international switched services within the scope of this application.

(m) With respect to regulatory classification under [§ 63.10](#), any applicant that is or is affiliated with a foreign carrier in a country listed in response to paragraph (i) and that desires to be regulated as non-dominant for the provision of particular international telecommunications services to that country should provide information in its application to demonstrate that it qualifies for non-dominant classification pursuant to [§ 63.10](#).

The undersigned hereby certifies, on behalf of LambdaNet Communications Deutschland AG (LambdaNet), with respect to the foregoing application for authority to provide international services, that neither LambdaNet Communications Deutschland AG nor any of its affiliated carriers listed pursuant to section 63.18 (i) above are classified to have market power by the respective regulatory authorities in the destination countries listed in the answer to question 12 of the applicant information below or is classified as dominant for the provision of any telecommunications service in those destination countries. Therefore LambdaNet qualifies for non-dominant classification pursuant to § 63.10.

Answer to Question 12 of Applicant Information:

LambdaNet seeks authority to provide services to the following destination countries:

- 1) Austria
- 2) Belgium
- 3) Czech Republic
- 4) Denmark
- 5) France
- 6) Germany
- 7) Netherlands
- 8) Spain
- 9) Switzerland
- 10) United Kingdom
- 11) Portugal

Answer to Question 15 of Applicant Information:

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(d) A statement as to whether the applicant has previously received authority under Section 214 of the Act and, if so, a general description of the categories of facilities and services authorized (i.e., authorized to provide international switched services on a facilities basis);

LambdaNet does not have received authority under Section 214 of the Act previously.

(e) (3) Other Authorizations. If applying for authority to acquire facilities or to provide services not covered by paragraphs (e)(1) and (e)(2), the applicant shall provide a description of the facilities and services for which it seeks authorization. The applicant shall certify that it will comply with the terms and conditions contained in § [63.21](#) and § [63.22](#) and/or § [63.23](#) , as appropriate. Such description also shall include any additional information the Commission shall have specified previously in an order, public notice or other official action as necessary for authorization.

LambdaNet does not apply for authority to acquire facilities pursuant to section 63.18 (e)(3) within the scope of this application. In addition to the proposed resale of bandwidth services LambdaNet will terminate internet traffic at internet exchange points within the US.

The undersigned hereby certifies, on behalf of LambdaNet Communications Deutschland AG (LambdaNet), with respect to the foregoing application for authority to provide international services, that LambdaNet will comply with the terms and conditions contained in § [63.21](#) and § [63.22](#) and/or § [63.23](#) , as appropriate.

g) Where the applicant is seeking facilities-based authority under paragraph (e)(3) of this section, a statement whether an authorization of the facilities is categorically excluded as defined by § 1.1306 of this chapter. If answered affirmatively, an environmental assessment as described in § 1.1311 of this chapter need not be filed with the application.

Not applicable; LambdaNet does not apply for authority to acquire facilities pursuant to section 63.18 (e)(3) within the scope of this application.